

**Amendments to the Drawings:**

Please add drawing sheet 4 to the three sheets of originally filed drawings. This sheet includes added Fig. 2A. Fig. 2A depicts an assembled cross-section view of the chamois shown in Fig. 1, showing the chamois as depicted in Fig. 2 without the optional elastic anti-microbial material layer 216.

Attachment: Added Drawing Sheet  
Annotated Sheet Showing Changes

## **REMARKS/ARGUMENTS**

This Amendment and Response is responsive to the final Office action dated December 7, 2007, setting forth a shortened three-month statutory period for reply with three month extension of time expiring on June 7, 2008. This Amendment and Response is filed on June 6, 2008; thus, a petition and fee for a three-month extension of time is required. A Request for Continued Examination is filed concurrently with the Amendment and Response.

The Assignee thanks the Examiner for reviewing this application and issuing an Office action.

Prior to entry of this Amendment and Response, claims 13-19, 50 and 55-58 are pending in the application, with claim 13 being an independent claim. In this Amendment and Response, no claims are amended, cancelled, or added. Accordingly, after entry of this Amendment and Response, claims 13-19, 50 and 55-58 are pending, with claim 13 being an independent claim. Although no claims are amended, the Assignee believes the proposed amendments for the specification and drawings and the arguments set forth below place the application into a condition for allowance. For the Examiner's convenience, a listing of the claims as currently pending is provided with this Response.

### **I. Objections to Specification**

The specification is objected to for failing to provide proper antecedent basis for the claimed subject matter. More particularly, the Examiner asserts that various limitations in claims 13 and 58 do not have proper antecedent basis. For at least the following reasons, the Assignee respectfully disagrees with these objections.

Although the Assignee believes the specification and drawings as originally filed provided proper antecedent basis for claims 13 and 58, the specification is amended to provide more clear support for claims 13 and 58. More particularly, the specification is amended to describe how the various garment and cloth facing sides for a layer or pad of the chamois contact the garment and cloth facing sides of the other layers or pads when the chamois is depicted in Fig. 2 is assembled. Support for this amendment may be found at least in originally filed Figs. 1 and 2 and in the original written description at paragraphs 23-26.

The specification is also amended to more fully describe how the perimeter of the foam layer 206 may encompass the perimeter of at least one of the foam pads 208. The Assignee

respectfully submits that the amendments to the specification do not add new matter since they simply clarify the written description and drawings as originally filed. Further, the Assignee respectfully submits that the amendments to the specification overcome the Examiner's objections to the specification. Accordingly, the Assignee respectfully requests that the Examiner enter the amendments and withdraw the objections to the specification.

**II. Rejections under 35 U.S.C. § 102(b)**

Claims 13, 15, 17 and 55 are rejected under 35 U.S.C. § 102 as anticipated by U.S. Pat. No. 6,565,702 issued to Forsyth (hereinafter "Forsyth"). For at least the following reasons, the Assignee respectfully disagrees with these rejections.

For a reference to anticipate a claim, the reference must teach or suggest each and every limitation in the claim. The Examiner asserts with reference to Fig. 17 in Forsyth that Forsyth teaches the limitation in independent claim 13 of "the at least one foam pad including a garment facing side contacting a body facing side of the first foam layer." However, Forsyth is not believed to contain such a teaching. Forsyth appears to teach that the body facing sides of the foam pads 39, 40 contact the garment facing side of cloth member 35.

More particularly, holes 37, 38 are cut through foam layer 36. (Forsyth, col. 7, ll. 62-66). Foam pads 39, 40 are inserted through these holes 37, 38. (See Forsyth, col. 7, ll. 42-49). Because of these holes 37, 38 in the foam layer 36, the garment facing side for each foam pad 39, 40 will contact the body facing side of cloth member 35 when the chamois is assembled. To aid in understanding this configuration, the Assignee has prepared Fig. A below. Fig. A below shows a cross-section view of the exploded Forsyth chamois shown in Fig. 17 when the various layers forming this chamois are assembled.

As can be seen in Fig. A below, the garment facing side of each foam pad 39 and 40 contacts the body facing side of cloth member 35. Further, it can be seen that the garment facing sides of the foam pads 39, 40 do not contact the body facing side of the foam layer 36 as recited in claim 13. In other words, the lower sides (as viewed in Fig. 2A) of the foam pads 39, (i.e., the garment facing side of the foam pads 39, 40) do not contact the upper side (as viewed in Fig. 2A) of foam layer 36 (i.e., the body facing side of the foam layer 36). Accordingly, contrary to the Examiner's assertion in the Office action, Fig. 17 of Forsyth does not appear to teach or suggest every limitation in claim 13.

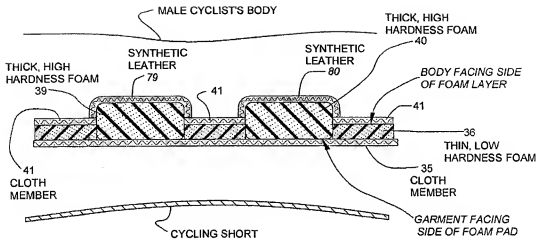


FIG. A

The Assignee notes that Fig. 18 in Forsyth appears to show a female version of the chamois shown in Fig. 17. The primary difference between the female and male versions of the chamois shown respectively in Figs. 18 and 17 appears to be that the female chamois uses one foam pad 73 rather than two foam pads 39, 40. However, like the male version shown in Fig. 17, the garment facing side of the foam pad 73 for the female chamois depicted in Fig. 18 contacts the body facing side of a cloth member 70. In other words, for the female chamois depicted in Fig. 18, the garment facing side of the foam pad 73 does not contact the body facing side of the foam layer 71 as recited in claim 13. Accordingly, Fig. 18 in Forsyth does not appear to teach or suggest every limitation in claim 13.

Forsyth also depicts either assembled or exploded cross-section views for various chamois in Figs. 6-8, 11-12, 15-16 and 19-20. With respect to the chamois shown in Figs. 6-8 and 11-12, the garment facing side of each foam pad 16, 17, 21, 22, 23, 59, 60 and 62 contacts the body facing side of a cloth layer (not numbered in these figures). Accordingly, the garment facing side of the various foam pads do not contact the body facing side of a foam layer as recited in claim 13.

The chamois shown in Figs. 15 and 16 are similar to the chamois shown in Fig. 17 and 18, respectively. Like the chamois shown in Figs. 17 and 18, holes 37, 38, 72 are cut in the foam layers 36, 71. Each hole 37, 38 receives a foam pad 39, 40, 73. Thus, like the chamois

shown in Figs. 17 and 18, the garment facing side of each foam pad 39, 40, 73 contacts a body facing side of a cloth layer 35 and 70. Accordingly, the garment facing side for each foam pad 39, 40, 74 does not contact the body facing side of the foam layers 36, 71 as recited in claim 13.

Turning to the chamois shown in Figs. 19 and 20, each chamois has a continuous cloth layer 41, 74 that is positioned between the foam pads 39, 40, 73 and the foam layers 36, 71. Because a cloth layer 41, 74 is positioned between the foam pads 39, 40, 73 and the foam layers 36, 71, a foam pad does not contact a foam layer as recited in claim 13.

Accordingly, for at least the foregoing reasons, Forsyth does not appear to teach or suggest "the at least one foam pad including a garment facing side contacting a body facing side of the first foam layer" as recited in claim 13. Since Forsyth does not appear to teach or suggest at least this limitation, claim 13 is patentably distinct over Forsyth. Accordingly, the Assignee respectfully requests that the Examiner withdraw the rejection of this claim and allow it.

Claims 15, 17 and 55 all depend from independent claims 13. Since each of these claims depends from a patentably distinct independent claim, the dependent claims are themselves patentable. Accordingly, the Assignee respectfully requests that the Examiner withdraw the rejections and allow these claims. The Assignee makes this statement without reference to or waiving the independent bases of patentability within the dependent claims.

### **III. Rejections under 35 U.S.C. § 103(a)**

Claims 14, 18, 19, 50 and 56-68 are rejected under 35 U.S.C. § 103(a) as unpatentable over Forsyth. Claim 16 is rejected under 35 U.S.C. § 103(a) as unpatentable over Forsyth in view of U.S. Pat. Publication No. 2005/0210570 to Gameau (hereinafter "Gameau"). For at least the following reasons, the Assignee respectfully disagrees with these rejections.

As discussed in more detail above in Section II, independent claim 13 is patentably distinct over Forsyth. Claims 14, 18, 50 and 56-68 all depend from independent claim 13. Since each of these claims depends from a patentably distinct independent claim, the dependent claims are themselves patentable. Accordingly, the Assignee respectfully requests the Examiner withdraw the rejections and allow these claims. The Assignee makes this statement without reference to or waiving the independent bases of patentability within the dependent claims.

With respect to claim 16, Gameau is cited for teaching a second cloth layer containing anti-microbial material. However, as discussed above in more detail in Section II, Forsyth

appears to fail to teach or suggest each and every limitation of claim 13. Further, Garneau does not cure such deficiency.

More particularly, claim 13 recites "the first foam layer including a garment facing side contacting a body facing side of the first cloth layer." Claim 13 also recites "the at least one foam pad including a garment facing side contacting a body facing side of the first foam layer and a body facing side contacting a garment facing side of the second cloth layer." Garneau does not teach or suggest this combination of recitations.

Garneau depicts and describes a seat pad 10 including an inner layer 40, a middle layer 42, and an outer layer 44. (See Garneau, Fig. 7 and paragraph 45.) The inner layer 40 is composed of a cloth-like material, the middle layer 42 is composed of an open cell foam, and the outer layer 44 is composed of a cloth-like material. (See Garneau, paragraphs 47, 48 and 56). The middle foam layer 42 may be formed from three layers of foam material: a first layer 52, a second layer 54 and a third layer 56. (See Garneau, Fig. 8 and paragraphs 50-53). The first layer 52 is disposed proximate the inner layer 40, and the inner layer 40 contacts the body of a cyclist. (See Garneau, paragraphs 45 and 49). Although the second foam layer 54 of the middle foam layer 42 has a garment facing side that contacts the body facing side of the third layer 56 of middle foam layer 42, it does not contact the inner cloth layer 40. Instead, it contacts the first foam layer 52 of middle foam layer 42. (See Garneau, Fig. 8). Accordingly, Garneau fails to teach or suggest the limitation of "the at least one foam pad including a garment facing side contacting a body facing side of the first foam layer and a body facing side contacting a garment facing side of the second cloth layer" as recited in claim 13 and dependent claim 16.

Further, substituting Garneau's middle foam layer 42 for any of Forsyth's foam pads 16, 17 and 21-23 (Figs. 6-8), 59-64 (Figs. 11-13), 39 and 40 (Figs. 15, 17 and 19), and 73 (Figs. 16, 18 and 20) or foam layers 36 (Figs. 15, 17 and 19) and 71 (Figs. 16, 18 and 20) would not result in a chamois as recited in claim 13, and thus claim 13 (and claim 16) are not rendered obvious by the combination of Forsyth and Garneau. With respect to substituting Garneau's middle foam layer 42 for Forsyth's foam pads 16, 17 and 21-23 (Figs. 6-8) and 59-64 (Figs. 11-13), such a substitution would result in three foam layers disposed between their respective inner and outer cloth layers (unnumbered). As discussed above, although the garment facing side of the second foam layer 54 of the middle foam layer 42 contacts the body facing side of the third layer 56 of middle foam layer 42, its body facing side would not contact any cloth layer as recited in claim 13 because it would contact Garneau's first foam layer 52.

With respect to substituting Garneau's middle foam layer 42 for Forsyth's foam pads 39 and 40 (Figs. 15, 17 and 19) or foam pad 73 (Figs. 16, 18, and 20), again there would be no foam layer that has "a garment facing side contacting a body facing side of the first foam layer and a body facing side contacting a garment facing side of the second cloth layer" as recited in claim 13. Instead, as discussed above, the second foam layer 54 of Garneau, which has a garment facing side that contacts the body side of the third layer 56 of middle foam layer 42, would not contact a cloth layer as recited in claim 13 because its body facing side would contact Garneau's first foam layer 52. Finally, with respect to substituting Garneau's middle foam layer 42 for Forsyth's foam layers 36 (Figs. 15, 17 and 19) and 71 (Figs. 16, 18 and 20), again the second foam layer 54 of Garneau, which has a garment facing side that contacts the body side of the third layer 56 of middle foam layer 42, would not contact a cloth layer as recited in claim 13 because its body facing side would contact Garneau's first foam layer 52.

Accordingly, for at least the foregoing reasons, the Assignee respectfully submits independent claim 13 and dependent claim 16 are patentable over both Forsyth and Garneau, either alone or together, and respectfully requests that the Examiner withdraw the rejection of claim 16 and allow it. The Assignee makes this statement without reference to or waiving the independent bases of patentability within dependent claim 16.

#### **IV. Drawing and Specification Amendments**

The Assignee has amended the drawings to add Fig. 2A. Fig. 2A shows a cross-section view of the chamois shown in Fig. 1, showing the various layers forming the chamois in an assembled view. The Assignee respectfully submits that although one skilled in the art would understand from the written description and the figures how the exploded chamois in Fig. 2 would appear when assembled, the chamois depicted in Fig. 1 is now shown in both an exploded view in originally filed Fig. 2 and an assembled view in new Fig. 2A. With respect to omission of anti-microbial layer 216 as shown in Fig. 2, the Assignee observes that the written description at paragraph 25 states that anti-microbial layer 216 is optional. Accordingly, this layer, which is optional, is not shown in Fig. 2A. Further, the Assignee respectfully submits that no new matter is added since Fig. 2A merely depicts the chamois as it is described in originally filed paragraphs 21 through 27 and in originally filed Fig. 2. For at least the foregoing reasons, the Assignee respectfully requests entry of Fig. 2A.

The Assignee has amended the specification between paragraphs 15 and 16 to describe Fig. 2A. This amendment to the specification does not add new matter because it is merely a description of Fig. 2A. Accordingly, for at least the foregoing reasons, the Assignee respectfully requests entry of this amendment.

Fig. 1 depicts a plan rather than an elevation view of a chamois. Thus, the Assignee has amended the specification at paragraph 14 to correct this drawing description issue. The Assignee respectfully submits that since the amendment merely corrects an obvious drawing description issue, no new matter is added. Accordingly, the Assignee respectfully request entry of this amendment.

**V. Conclusion**

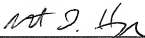
After entry of the above listing of claims and remarks, claims 13-19, 50, and 55-58 remain in the application. In accordance with the amendments and arguments set forth herein, the Assignee respectfully submits the application and all claims are in a condition for allowance, and requests such prompt allowance.

This Response is filed with a Request for Continued Examination ("RCE") and a petition for a three-month extension of time. Accordingly, please charge Deposit Account No. 04-1415 in the total amount of \$930.00 (\$405.00 for the RCE fee and \$525.00 for three-month extension fee). The Assignee believes no further fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this as authorization therefor and please charge such fees to Deposit Account number 04-1415.

Should any issues remain that the Examiner believes may be dealt with in a telephone conference, she is invited to contact the undersigned at 303-629-3400.

Signed this 6 day of June, 2008.

Respectfully submitted,



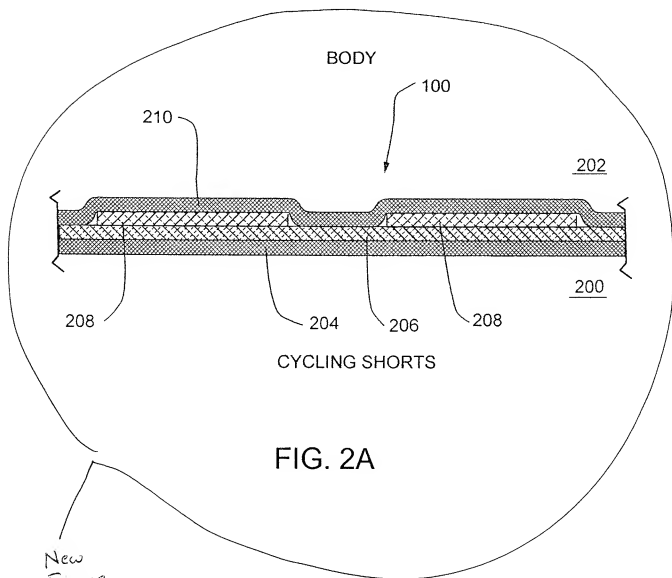
---

Robert D. Hoge, Registration No. 55,273  
USPTO Customer No. 20686

DORSEY & WHITNEY LLP  
370 17<sup>th</sup> Street, Suite 4700  
Denver, Colorado 80202-5647  
Telephone: 303-629-3400  
Facsimile: 303-629-3450



4/4



New  
Figure